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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,293	07/28/2003	Michael Bensimon	886-011431-US (PAR)	3482
2512	7590	05/15/2007	EXAMINER	
PERMAN & GREEN 425 POST ROAD FAIRFIELD, CT 06824			MUI, GARY	
			ART UNIT	PAPER NUMBER
			2616	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/628,293	Applicant(s) BENSIMON ET AL.	
	Examiner Gary Mui	Art Unit 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Drawings***

2. The drawings are objected to because the figures do not have descriptive labels. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. In addition to Replacement Sheets containing the corrected drawing figure(s), applicant is required to submit a marked-up copy of each Replacement Sheet including annotations

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indicating the changes made to the previous version. The marked-up copy must be clearly labeled as "Annotated Sheets" and must be presented in the amendment or remarks section that explains the change(s) to the drawings. See 37 CFR 1.121(d)(1). Failure to timely submit the proposed drawing and marked-up copy will result in the abandonment of the application.

### *Specification*

4. The disclosure is objected to because of the following informalities: The disclosure is missing section headings; the text of the specification sections should be preceded by a section heading in uppercase and without underlining or bold type.

Appropriate correction is required.

5. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.

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- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

### *Claim Objections*

6. Claim 20 is objected to under 37 CFR 1.75 because of the following informalities:

For claim 20 line 3, the occurrence of "and expiration threshold" should be changed to --an expiration threshold--.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

For claim 15 line 1, the occurrence of "the various messages" lacks antecedent basis.

### *Claim Rejections - 35 USC § 102*

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1 are rejected under 35 U.S.C. 102(b) as being anticipated by Shaffer et al. (US 6,021,114).

For claim 1, Shaffer et al. teaches the server acquires state information for the network from traffic transmission devices on the network, the network determining state information specific to the telephone activity of the terminal and providing it as network state information, and the server compares network state information with at least one predetermined criterion for the state of the network, to delay the transmission of data to the terminal as long as the state of the network does not satisfy at least one state criterion (see column 6 lines 8 – 19 and 61 – 67, the network activities are used to create a threshold and when the value goes higher then the threshold the switch will not allow for the transmission of data and will wait for a later time).

For claim 2, Shaffer et al. teaches the network status used to create the threshold have by analyzing the load during the time and the number of line currently in use (see column 5 line 66 – column 6 line 19).

For claims 3 and 4, Shaffer et al. teaches the network monitors changes to state information and automatically sends a state change notification to the server to request refreshment of previously acquired state information and the network notifies the need for a transmission to refresh state information that has changed (see column 6 line 13 – 17; the network traffic is continuously monitored and threshold value is continuously updated).

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For claims 5 and 6, Shaffer et al. teaches the server acquires state information through a state information manager and the manager receives and stores state information from the network (see column 6 lines 19 – 29, the monitoring system the network traffic).

For claims 7 and 8, Shaffer et al. teaches the network acquires at least some state information from network switching centres (see column 6 lines 19 – 29, the PBX monitors the number and percentage of available lines).

For claim 9, Shaffer et al. teaches the centres monitor the current state of state information to compare it with the previous state information kept in local storage, so that when a state change event occurs, the locally stored information can be updated and current state information can be sent to the server (see column 6 lines 8 – 12, the threshold is establish by historical data).

For claim 10, Shaffer et al. teaches the utilization of the a particular line (see column 6 lines 19 – 21)

For claim 11, Shaffer et al. teaches information stored locally in a centre is transmitted to the server on request (see column 6 lines 53 – 60, the switch will set a data traffic pattern for the messaging system).

For claim 16, Shaffer et al. teaches the manager request the required state information from the network (see column 6 lines 18 – 29).

For claim 17, Shaffer et al. teaches the manager sends an order in the network that information necessary to refresh the previously received state information should be returned (see column 6 lines 19 – 29).

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For claim 18, Shaffer et al. teaches the manager monitors if state information is available in the network and orders that the information should be refreshed if some state information is missing (see column 5 lines 15 – 30, during the connection establishment and establishment of the threshold value).

For claims 19 and 20, Shaffer et al. teaches refreshment is not ordered until the manager has received a state information request from the server and the manager determines a storage duration for the information available to him and does not order refreshment unless the storage duration exceeds an expiration threshold (see 6 lines 30 – 52)

For claim 27, Shaffer et al. teaches the server is functionally integrated into a semaphore signaling network managing the telephone network (see column 5 lines 19 – 30).

For claim 28, Shaffer et al. teaches a radio network (see column 4 lines 36 – 38).

For claim 29, Shaffer et al. teaches management means designed to receive state information from the network and to forward it to information data servers (see column 6 lines 19 – 29, the monitoring system the network traffic).

For claim 30, Shaffer et al. teaches making queries about the network state (see column 6 lines 18 – 29).

For claim 32, Shaffer et al. teaches combining network state information, to provide network state summary data (see column 6 lines 13 – 17).

For claim 33, Shaffer et al. teaches integrating network state information with respect to time, to supply summary data about the state of the network (see column 6 lines 13 – 17).



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***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

13. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

14. Claims 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaffer et al. in view of Komandur et al. (US 2004/0047290 A1).

For claims 12 – 14, Shaffer et al. teaches all of the claimed subject matter with the exception of the network acquires at least part of the state information through traffic monitoring

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sensors positioned on the communication feeders of the network and the sensors analyse signal fields of messages passing on communication feeders to extract at least some state information about the terminal. Komandur et al. form the same field of endeavor teaches monitoring the wireless network for a variety of status and control information (see paragraph 0055 lines 4 – 6 and paragraph 0056). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to monitor the network as taught by Komandur et al. into Shaffer's et al. communication system. The motivation for doing this is to have a more efficient communication system.

*Claim Rejections - 35 USC § 103*

15. Claims 21 – 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaffer et al. in view of Jouppi et al. (US 7,031,718 B2).

For claim 21, Shaffer et al. teaches all of the claimed subject matter with the exception of refreshment of the state information is ordered by sending activation stimuli to the terminal, through the network; the stimuli are sent to the terminal to activate it so that a context for a new data link can be set up in the network, and to detect the link context to refresh network state information specific to the terminal; the stimuli activate an application on the terminal; the stimuli activate a SIM Toolkit application; the application deactivation stimuli are sent; the stimuli firstly reach a switching centre of the network and order it to transform them into a activation message sent from the terminal, notifying it that it should call a centre to recover data on this centre. Jouppi et al. from the same field of endeavor teaches the user initiates a service request by starting a desired application by means of the user interface of the terminal.

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In the wireless terminal the service request activates an execution environment and also the desired application. By means of the mobile communication network, the terminal sets up a connection to the Internet network or another network where the desired service is (see column 5 lines 1 – 7). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to active application as taught by Jouppi et al. into the Shaffer's et al. communication system. The motivation for doing this is to lower the system complexity.

### *Conclusion*

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rajaraman (US 5,802,310), Spaling et al. (US 7,016,686 B2), Quentin et al. (US 7,082,319 B2), and Miya (2003/0123422 A1) are cited to show equipment and method for management of state information for data transmission in a telephone network.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Mui whose telephone number is (571) 270-1420. The examiner can normally be reached on Mon. - Thurs. 9 - 3 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on (571) 272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GM

05.11.2007

  
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SUPERVISORY PATENT EXAMINER